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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
SCHNURR, JOHN R	
ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/085,886	KIKINIS, DAN	
	Examiner	Art Unit	
	JOHN SCHNURR	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 March 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 18-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 18-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/22/2010 has been entered.

DETAILED ACTION

1. Claims 1-12 and 18-25 are pending and have been examined.

Response to Arguments

2. Applicant's arguments filed 03/22/2010 have been fully considered but they are not persuasive.

In response to applicant's argument (Remarks pg. 6) that Klarfeld (US 2003/0067554) does not disclose "behavior peaks," the examiner respectfully disagrees. Klarfeld clearly teaches creating multiple user profiles based on a user action history, which contains information on channels watched for more than a specific duration ([0226]-[0230]).

In response to applicant's argument (Remarks pg. 7) that Knee (US 2002/0095676) does not disclose "removing a category from the second set in response to the broadcasted program viewing device not being tuned, for a period of time at least equal to a second predetermined threshold, to at least one broadcasted program predetermined to be in the category from the second set," the examiner respectfully

disagrees. As noted by applicant Knee discloses refreshing the demographic categories after a predetermined time threshold. This is performed to keep the user information current so that categories not viewed recently could be removed. ([0044])

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims **1, 4, 5, 7, 10, 11 and 18-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752)** in view of **Wang et al. (US 2003/0028871)**, herein Wang, in view of **Knee et al. (US 2002/0095676)**, herein Knee and further in view of **Klarfeld et al. (US 2003/0067554)**, herein Klarfeld.

Referring to **claim 1**, McClard teaches a method performed by a processor comprising:

> adding a category from a first set of broadcasted programs provided by a media provider **(Head-end server 34 provides media and category information, column 4 lines 27-39.)** to a second set of categories of broadcasted programs in response to a broadcasted program viewing device being tuned, for a period of time at least equal to a first predetermined threshold, to a broadcasted program predetermined to be in the category from the first set, wherein the second set of categories comprises a plurality of behavior peaks; **(Column 4 lines 64-67 and Figure 3 element 54 teaches storing program category information in the memory and Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56)**;

However, McClard does not explicitly teach updating the second set in response to a plurality of broadcasted programs being tuned for a period of time at least equal to a first predetermined threshold.

In an analogous art, Wang, which discloses a system for collecting viewing information, clearly teaches updating a second set in response to a plurality of broadcasted programs being tuned for a period of time at least equal to a first predetermined threshold. **(Session time is added to total time and if total time is greater than a predetermined threshold the preference profile is updated, [0034].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard by updating the second set in response to a plurality of broadcasted programs being tuned for a period of time at least equal to a first predetermined threshold, as taught by Wang, for the benefit of determining channel surfer preferences ([0034] Wang).

McClard further teaches creating multiple profiles. **(column 5 lines 19-41)** McClard combined with Wang fails to teach determining a demographic profile based on the second set; and selecting a first advertisement based on the demographic profile.

In an analogous art, Knee teaches determining a demographic profile based on the second set **(Paragraphs [0029] and [0030] and Figure 2 teach determining demographic categories for a user; Paragraph [0036] teaches that a show's category is used determine a user's demographic profile)**; and selecting a first advertisement based on the demographic profile **(Paragraph [0050] teaches determining an advertisement from the user demographic profile)**.

At the time the invention was made it would have been obvious for one skilled in the art to modify the category set moving method McClard combined with Wang using the demographic profiling and advertisement determination method of Knee for the purpose of categorizing user information into demographic categories that could then be used for specified purposes, such as for targeting advertisements or taking certain actions in the program guide (Paragraph [0007], Knee).

However, McClard combined with Wang and Knee does not explicitly teach each demographic profile corresponds to a different behavior peak and wherein each behavior peak and each demographic profile is assigned to a different user.

In an analogous art, Klarfeld, which discloses a system for personalizing television, clearly teaches each demographic profile corresponds to a different behavior peak and wherein each behavior peak and each demographic profile is assigned to a different user. **(Paragraphs [0226]-[0230] and Figure 36 teach creating multiple profiles corresponding to multiple users and determining user profiles based on the observed behavior peaks of the users.)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard combined with Wang and Knee by determining a plurality of demographic profiles by analyzing behavior peaks indicated by the second set, as taught by Klarfeld, for the benefit of simplifying the profile system for the user ([0226] Klarfeld).

Referring to **claim 4**, depending on claim 1, Knee teaches receiving a set of advertisements including the first advertisement **(Paragraph [0023])**.

Referring to **claim 5**, depending on claim 1, Knee teaches removing a category from the second set in response to the broadcast program viewing device not being tuned for a period of time at least equal to a second predetermine threshold, to at least one broadcasting program predetermined to be in the category from the second set **(Paragraph [0044])**.

Referring to **claim 7**, see the rejection of claim 1; **(McClard Figure 3 teaches element 50 a processor and element 52 is memory according to Column 4 lines 54-61; Knee teaches Figure 1 and elements 64 memory and 60 a microprocessor according to Paragraph [0028].)**

Referring to **claim 10**, depending on claim 7, see the rejection of claim 4.

Referring to **claim 11**, depending on claim 7, see the rejection of claim 5.

Referring to **claim 18**, depending on claim 1, Wang teaches adding a category from a first set of broadcasted programs provided by a media provider to a second set of categories of broadcasted programs in response to multiple selections of at least one broadcasted program predetermined to be in the category from the first set. **([0034])**

Referring to **claim 19**, depending on claim 7, see the rejection of claim 18.

Referring to **claim 20**, depending on claim 1, McClard teaches adding a category from the first set to the second set of categories in response to a selecting of the category from the first set. **(Column 5 lines 52-67 and Column 6 lines 1-9 teaches that when a program is watched for a period of time the program is added to a frequency watch list in memory 56 of Figure 3 and along with**

the program name the type/genre is added to memory 56 thus the category of a program is added from a first set of categories in memory 54 to a second set of data that includes categories in memory 56 when the category is selected by tuning the program.)

Referring to **claim 21**, depending on claim 7, see the rejection of claim 20.

Referring to **claim 22**, depending on claim 1, McClard teaches increasing a weight value of a category based on a duration of viewing time for at least one broadcast program in that category **(Column 6 lines 5-9 teaches if the user watches a particular program for a predetermined period of time the genre is stored in frequency memory 56.)**; and wherein the step of determining a plurality of demographic profiles includes utilizing weight values for categories to determine said demographic profiles. **(Column 6 line 62 to Column 7 line 7 teaches the weight of the genre for a particular time period is used in the user profile.)**

Referring to **claim 23**, depending on claim 7, see the rejection of claim 22.

Referring to **claim 24**, depending on claim 1, Knee teaches removing a category from the second set in response to a selection of the category from the second set **(Categories which have not been viewed are selected to be removed [0044].)**.

Referring to **claim 25**, depending on claim 7, see the rejection of claim 24.

5. Claims **2, 3, 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752 B1)** in view of **Wang et al. (US 2003/0028871)** in view of **Knee et al. (US 2002/0095676)** further in view of **Klarfeld et al. (US 2003/0067554)**, as applied to claims 1 and 7 above, and further in view of **Ellis et al. (US 2003/0020744)**, herein Ellis.

Referring to **claim 2**, depending on claim 1, McClard, Wang, Knee and Klarfeld fail to teach displaying the first advertisement with an interactive programming guide.

In an analogous art Ellis teaches displaying the first advertisement with an interactive programming guide **(Paragraphs [0125] and [0126] teach selecting an advertisement and Paragraph [0110] teaches using viewer history to**

determine which advertisements to use in the program guide, Figure 5 elements 108).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard, Wang, Knee and Klarfeld using the targeted advertisement display method of Ellis for the purpose of providing users a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 3**, depending on claim 1, McClard, Wang, Knee and Klarfeld fail to teach transmitting the second set to a unit at a head end of a broadcasting system.

In an analogous art Ellis teaches transmitting the second set to a unit at a head end of a broadcasting system **(Paragraphs [0125] and [0126] and Figure 2b teach transmitting the user history to the program guide server element 25)**.

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McClard, Wang, Knee and Klarfeld using the transmission of recorded user history data to the head end of Ellis for the purpose of providing users' a user customized program guide experience (Paragraph [0010], Ellis).

Referring to **claim 8**, depending on claim 7, see rejection of claim 2.

Referring to **claim 9**, depending on claim 7, see rejection of claim 3.

6. Claims **6 and 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McClard (US 6,438,752 B1)** in view of **Wang et al. (US 2003/0028871)** in view of **Knee et al. (US 2002/0095676)** further in view of **Klarfeld et al. (US 2003/0067554)**, as applied to claims 1 and 7 above, and further in view of **Schaffer et al. (US 2002/0104087)**, herein Schaffer.

Consider **claim 6**, McClard, Wang, Knee and Klarfeld, combined as in claim1, clearly teach adding a category from a first set to a second set.

However, McClard, Wang, Knee and Klarfeld do not explicitly teach verifying profile updates with a viewer.

In an analogous art, Schaffer, which discloses a system for maintaining a user profile, clearly teaches verifying profile updates with a viewer. **(The feedback request command queries the user about a program being watched, [0048].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of McClard, Wang, Knee and Klarfeld by verifying profile updates with a viewer, as taught by Schaffer, for the benefit of maximizing the performance of a television recommender ([0010] Schaffer).

Referring to **claim 12**, depending on claim 7, see rejection of claim 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on M-F 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

JRS